STATE OF WASHINGTON
PUGET SOUND ACTION TEAM
OFFICE OF THE GOVERNOR
P.O. Box 40900 • Olympia, Washington 98504-0900
(360) 725-5444 • (360) 725-5456

August 18, 2005

Western Washington Municipal SW Comment – NPDES Phase I
Mr. Bill Moore
Washington State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Dear Mr. Moore:

Thank you for the opportunity to submit comments on the "Preliminary Draft Phase I Municipal Stormwater NPDES and State Waste Discharge General Permit." I am submitting these comments as director of the Puget Sound Action Team staff rather than as the chair of the multi-agency Puget Sound Action Team partnership.

In general, we support the current draft of the permit and commend the department for its efforts. We particularly support use of the 2005 Stormwater Management Manual for Western Washington as the minimum technical standard for flow control and treatment from new development and redevelopment projects, operation and maintenance of existing facilities, and source control. Stormwater runoff is a leading cause of pollution in urban areas of Puget Sound and has been cited by Shared Strategy for Puget Sound as one of the threats to salmonids and bull trout listed under the Endangered Species Act. The department's manual is a key component of our region's toolbox to protect water resources, especially salmonids and bull trout, from the adverse effects of stormwater runoff. We do have several suggestions that we believe would strengthen the draft permit. The following comments are divided into two parts: Suggestions for improvement and areas of support.

<u>Suggestions for improvement</u>

- Page 6, lines 27-35: We recommend adding language to the permit condition related to Compliance with Standards to clarify that permittees must apply additional controls if stormwater discharges from the permittees' MS4 (Municipal Separate Storm Sewer System) are identified as needing to be controlled as part of a source control program related to the cleanup of contaminated sediments.

The following comments refer to S6 Monitoring:

- Page 7 discussion box: We support the development of integrated water quality monitoring programs (though perhaps not at the scale of WRIAs – see comment below) but do not feel that integrated programs need to be required. There may be cases where individual programs could be more practical and/or effective.
- Page 8, lines 2 and 3: We recommend broadening the types of collaborations that can be developed for integrated water quality monitoring programs. For some permittees, WRIAs will not be the most logical units for collaboration. We should encourage collaborations of all/some permittees discharging directly to central Puget Sound or to other basins or sub-basins of Puget Sound (e.g., Sinclair/Dyes inlets, Whidbey Basin). We should also leave open the opportunity for, and possibly encourage, the development of a Puget Sound-wide integrated stormwater monitoring program that would consolidate efforts from all permittees and from other parties, such as the department, regional universities, NOAA Fisheries, and others.
- Page 8, lines 17 to 31: We recommend clarifying that lead permittees (along with non-lead permittees) are responsible for implementing monitoring programs.
- Page 10, lines 1 and 2: We recommend broadening the responsibility of ports to parallel that of cities and counties: "to identify potential monitoring stations in receiving waters and in outfalls associated with those receiving waters." Stormwater runoff from port properties can impair beneficial uses of state waters.
- Pages 10 and 15 discussion boxes: We feel that independent and integrated monitoring programs should be reviewed and approved. The department or an independent reviewer should focus on: Does the proposed permit program, and do permittees' programs, answer (or appear able to answer) the questions on page 7, line 29 to 33? What program revisions or refinements could be made to improve the program's ability to answer these questions?
- Page 10, line 31: We recommend including "data quality objectives" in the list of items in the description of the monitoring program. Articulating the data quality objectives is a required element of a QAPP for a monitoring program.
- Page 10, line 37: We recommend expanding monitoring in receiving waters to include toxic contaminants commonly found in stormwater, such as PAHs and metals (e.g., copper, zinc, cadmium). These pollutants are strongly suspected to have adverse effects on marine life, and pollutants that bind to sediment particles may be a significant source of contamination of Puget Sound's sediments. This monitoring might take place in the water column, in sediments adjacent to outfalls, or both, depending on the partitioning of the contaminants. This monitoring would inform the permittee, Ecology, and others of "trouble spots," and would allow the permittee, the department, and others to direct resources to areas of concern to identify and correct sources of pollution. The permit should include sufficient water quality monitoring in receiving waters so that the department, permittees, and others have an understanding of the effects of stormwater discharges on state waters and biological resources.
- Page 11, line 1: We recommend revising language to clarify that RIV-PAC is an example of one acceptable approach for benthic community analysis and that other biological

endpoints may be used in some receiving water environments (e.g. large rivers, marine waters).

- Page 11, line 23: For clarification purposes, we recommend clarifying that analysis of BNAs is also known as semivolatile organics and includes quantification of PAHs.
- Page 11, line 35: We recommend expanding bacteria monitoring to include fecal coliform bacteria analysis in marine waters or fresh waters adjacent to shellfish harvest areas. Fecal coliform bacteria is the indicator used to classify marine waters for shellfish harvest.
- Page 12, line 8: We recommend clarifying references to "third party or parties selected to develop the monitoring plan." We find it difficult to find a prior discussion of third parties and their responsibilities under this section.
- Page 12, lines 4 to 10 and Page 16, lines 18 to 27: We urge the department to shorten the timeframes for developing and implementing plans for monitoring and for the initial reports on these plans. The suggested timelines (e.g., 30 months to adopt the monitoring program and 36 months to implement it) are not sufficiently aggressive to allow timely improvements to programs and practices.
- Page 13 discussion box: We feel it is entirely reasonable to include BMP effectiveness monitoring as a requirement of this (and the phase II) permit. However, we recommend that the requirements for BMP effectiveness monitoring be revised to require the development of a regional BMP effectiveness monitoring program (perhaps with phase II municipalities) and to require permittees to participate in the development and implementation of that program. BMP effectiveness monitoring should be fully coordinated to maximize the usefulness of monitoring investments and results while taking into account varying local conditions. A regional program would offer the most hope of full coordination.
- Page 13, lines 23 to 27: We recommend revising the questions to afford better focus on questions of BMP effectiveness. For example: (a) What performance of BMPs is observed in their implementation in this region? (b) What factors affect BMP performance?
- Page 13, line 35: We recommend correcting the reference to S6.A.2.
- Page 14, line 10: We recommend that the department require that the BMPs tested are designed using criteria (i.e., specifications) according to the 2005 Stormwater Management Manual for Western Washington, or according to an alternative local manual approved by the department. Testing BMPs that are only similar to, but perhaps containing key differences from, the department's stormwater manual may result in test results that cannot be fairly compared and equated.

The following comments relate to S7 Stormwater Management Program:

- Page 19, lines 8 and 13: We urge the department to shorten the timeframes for permittees to map tributary conveyances and discharges to groundwater. The suggested timelines (4 years for each activity) appear unnecessarily long and may severely restrict the department's ability to improve the permit program for the next permit cycle (in 5 years).
- Page 20, lines 20-21: We recommend adding these activities (e.g., advisory councils, watershed committees, participation in developing rate structures, stewardship programs) to the minimum performance measures section under "b." The current list of performance

measures is too brief and lacking in detail; adding these activities would significantly strengthen this section and provide permittees with clear direction.

- Page 22, line 8: We recommend shortening the timeline for the SWMP to include a process of permits, plan review, inspections and enforcement from 18 to 12 months. Permittees should already have this process in place since they are all currently under an existing NPDES permit and we presume they are currently issuing permits, reviewing plans, conducting inspections and providing enforcement. We find the proposed 18-month timeline unnecessarily long.
- Page 23, lines 20-24: We recommend adding language to the program element on structural stormwater controls stating that permittees would satisfy this permit condition through the redesign of residential neighborhoods and/or commercial areas that results in reduced runoff, increased infiltration, and improved stormwater treatment. Seattle Public Utilities' Natural Drainage Systems projects are examples of structural stormwater controls that have resulted in significant improvements in stormwater management. We should encourage these as well as commercial redesign projects.
- Page 26, lines 30-38 and page 27, lines 1-14: We recommend including language in an existing minimum measure, or adding a new minimum measure, that permittees shall use non-toxic alternatives to chemical fertilizers whenever practical, and that permittees will provide training on non-toxic alternatives to pesticides as part of the two required trainings (page 27, lines 9-14). Chemical pesticides pollute waterways and there are many alternatives to the traditional use of chemical pesticides, herbicides and fungicides – permittees should use these safer techniques whenever practical.
- Page 30, lines 33 and 39: We recommend shortening the timeline to develop and begin to implement an initial inspection program for private development from 12 to 6 months. Because this is a reissuance of the permit, we presume that permittees already are implementing some type of inspection program. Twelve months seems unnecessarily long. Likewise, it's unclear to us why the timeline for developing an ongoing inspection schedule for annual inspections is so long (48 months). This timeline should be significantly shortened to ensure that annual inspections actually occur during this permit cycle.
- Page 31, line 7: We recommend shortening the timeline for permittees to begin to inspect all new stormwater facilities in residential projects from 24 to 12 months, at most. Because this is a reissuance of a permit, we presume that permittees already have such an inspection program. It is unclear to us why permittees need such a long timeline.
- Page 31, line 40: We recommend shortening the timeline for permittees to begin to annually inspect municipal catch basins and inlets from 24 to 12 months, at most. Because this is a reissuance of a permit, we presume that permittees already have such an inspection program. It is unclear to us why permittees need such a long timeline to begin this program.
- Page 32, line 21: We recommend shortening the timeline for permittees to begin to annually inspect other municipal facilities from 18 to 12 months, at most. Because this is a reissuance of a permit, we presume that permittees already have such an inspection program. It is unclear to us why permittees need such a long timeline to begin this program.

- Page 33, lines 36-40: We recommend adding language that states that the SWMP "must include communication to the community regarding the permittee's program activities and specific actions citizens should take to reduce harm from stormwater runoff." Communicating how the municipality is using public funds to protect water quality is a proven method for ensuring that the public will support public programs.
- Page 34, lines 3-4: We recommend changing the language to read: "an education program that uses a diverse variety of tools and outreach approaches (brochures alone are not adequate)…" The permit should be clear that a variety of outreach methods are required.
- Page 34, line 21: We recommend changing the language to read: "and fertilizers, and the use of less toxic alternatives." There are a number of less or non-toxic alternatives to lawn chemicals; every municipality should communicate these to their community.
- Page 34: We recommend adding a new sub-element, or adding language to an existing sub-element, regarding proper automobile maintenance, fixing oil leaks, driving less, and other practices to reduce pollution from cars and trucks. Vehicles are a leading contributor of metals and petroleum products to state waters.
- Page 44, line 18: We recommend adding language requiring permittees' to include in their annual reports information regarding their progress in "protecting and restoring water quality and beneficial uses." The current draft is missing this key reporting information.

Areas of support

- Page 5, lines 4-9: We support language that permittees must include a TMDL Summary Implementation Report as part of their annual report to the department. This will help the department and others track progress in implementing TMDLs.
- Page 5, 15-19: We support language that the department may modify this permit to incorporate requirements from TMDLs completed after this permit is issued if additional controls are needed to make progress toward achieving TMDL waste load allocations.
- Page 6, 27-35: We support language that additional controls must be applied in addition to the technical standards of the permit if site-specific information indicates that additional controls are needed to protect beneficial uses.
- Page 19, lines 35-39: We support language requiring coordination mechanisms among permittees, co-permittees, and secondary permittees to encourage coordinated stormwater management policies, programs, and projects.
- Page 20, lines 2-10: We strongly support inclusion of the minimum requirements in Appendix 1, particularly the flow control and treatment standards and the use of forested condition as the pre-development condition (unless historical records indicate the site was prairie). Puget Sound's resources are vulnerable and at risk from the adverse effects of stormwater runoff. The *Regional Nearshore and Marine Aspects of Salmon Recovery in Puget Sound*, delivered to Shared Strategy for Puget Sound for inclusion in the regional salmon recovery plan, cites stormwater discharges as having adverse effects on salmon and bull trout populations listed as threatened under the Endangered Species Act (page 4-27 table 4-4; page 4-36 table 4-6). The chapter recommends using existing regulatory protection programs to maintain functions and water quality for threatened species and, as needed, refine the programs (page 7-8 table 7.1). Stronger stormwater management

standards, particularly stronger flow control and treatment standards, are needed to protect and recover these valuable resources.

- Page 21, lines 26-29: We strongly support language that the SWMP must allow for non-structural preventive actions and source reduction approaches such as low impact development techniques. These new techniques hold great promise for helping us manage stormwater more effectively.
- Page 21, lines 30-33: We support the proposed timeline for permittees to adopt the minimum requirements of Appendix 1 within 12 months, since this is a reissuance of an existing permit. We also strongly support the department's review and approval of local (alternative) stormwater manuals and ordinances.
- Page 25, lines 38-41: We support required inspections of all existing commercial, multifamily, industrial and government sites that are potentially pollution generating.
- Page 30, lines 11-12: We support the requirement that maintenance standards be developed that are at least as stringent as those found in the 2005 Stormwater Management Manual for Western Washington.

Thank you for the opportunity to comment on the draft permit. If you have questions on these comments, please contact Bruce Wulkan, the PSAT Program Manager for stormwater and combined sewer overflows, at (360) 725-5455 or at bwulkan@psat.wa.gov.

Sincerely,

Brad Ack
Director

cc: Bruce Wulkan
Harriet Beale
Scott Redman